

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:08-CR-116
)	
DEXTER MIMS,)	(VARLAN/SHIRLEY)
)	
Defendant.)	

MEMORANDUM AND ORDER

This case is before the Court on appointed defense counsel Attorney Samuel K. Lee's Motion to Withdraw as Counsel [Doc. 88], filed on September 22, 2009, and referred to the undersigned on September 30, 2009 [Doc. 91] pursuant to 28 U.S.C. § 636(b). The parties appeared before the undersigned on October 6, 2009, for a hearing on defense counsel's motion. Assistant United States Attorney David Jennings was present on behalf of the government. The Defendant, Attorney Lee, and Attorney Scott Green were also present.

Attorney Lee's motion asks the Court to allow him to withdraw from representing the Defendant and to appoint new counsel to replace him. At the hearing, Attorney Lee explained that he believed that it was necessary for him to withdraw because he recently discovered that he had previously been involved with a criminal prosecution of the Defendant in state court. Attorney Lee stated that he assisted in the prior state prosecution of the Defendant while employed as an Assistant District Attorney. Attorney Lee represents, and the Court agrees, that his prior involvement in the state court matter has the potential to create both the appearance of impropriety and a real conflict

of interest.

At the hearing, the government did not object to Attorney Lee's motion. The Defendant also did not object. Accordingly, the Court finds that Attorney Lee's motion is well-taken and that good cause exists to substitute new counsel for Attorney Lee. The Motion to Withdraw as Counsel [Doc. 88] is **GRANTED**, and Attorney Lee is relieved as appointed counsel for the Defendant

The Court recognizes the need for the Defendant to be continuously represented by counsel. Attorney Scott Green agreed to undertake representation of the Defendant and the Court hereby substitutes and appoints Attorney Green under the Criminal Justice Act (CJA) as counsel of record for the Defendant.

At the conclusion of the hearing, the parties agreed to reset the sentencing in this case to October 28, at 2:30 p.m., before the Honorable Thomas A. Varlan, United States District Judge.

It is ordered:

- (1) Attorney Samuel K. Lee's Motion to Withdraw as Counsel [Doc. 88] is **GRANTED**;
- (2) Attorney Scott Green will replace Attorney Lee as the Defendant's counsel of record;
- (3) The sentencing in this matter is reset to commence on **October 28, 2009, at 2:30 p.m.**, before the Honorable Thomas A. Varlan, United States District Judge.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge